

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DEXIA SA/NV; DEXIA HOLDINGS, INC.;
FSA ASSET MANAGEMENT LLC; DEXIA
CRÉDIT LOCAL SA,

Plaintiffs,

v.

BEAR, STEARNS & CO. INC., THE BEAR
STEARNS COMPANIES, INC., BEAR
STEARNS ASSET BACKED SECURITIES I
LLC, EMC MORTGAGE LLC (f/k/a EMC
MORTGAGE CORPORATION),
STRUCTURED ASSET MORTGAGE
INVESTMENTS II INC., J.P. MORGAN
ACCEPTANCE CORPORATION I, J.P.
MORGAN MORTGAGE ACQUISITION
CORPORATION., J.P. MORGAN
SECURITIES LLC (f/k/a JPMORGAN
SECURITIES INC.), WAMU ASSET
ACCEPTANCE CORP., WAMU CAPITAL
CORP., WAMU MORTGAGE SECURITIES,
JPMORGAN CHASE & CO., and JPMORGAN
CHASE BANK, N.A.,

Defendants.

12-cv-4761 (JSR)

ECF CASE

**DECLARATION OF JEROEN VAN KWAWEGEN IN SUPPORT OF PLAINTIFFS'
MOTION FOR REMAND TO THE SUPREME COURT OF NEW YORK**

Jeroen van Kwawegen, an attorney admitted to practice before this Court and associated with the law firm of Bernstein Litowitz Berger & Grossmann LLP, counsel for Dexia SA/NV, Dexia Holdings, Inc. (“DHI”), FSA Asset Management LLC (“FSAM”) and Dexia Crédit Local SA (“DCL”) (collectively, “Plaintiffs”) submits this declaration in support of Plaintiffs’ Motion for Remand, and pursuant to 28 U.S.C. § 1746 declares as follows:

1. Attached as Exhibit 1 is a true and correct copy of the transcript and Order, dated July 16, 2012, of the Honorable Lewis A. Kaplan, regarding plaintiff's motion for remand in *Bayerische Landesbank, N.Y. Branch v. Bear Stearns & Co., et al.*, 12-cv-2804 (S.D.N.Y.) and *Bayerische Landesbank, N.Y. Branch v. Merrill Lynch & Co., et al.*, 12-cv-3856 (S.D.N.Y.).

2. Attached as Exhibit 2 is a true and correct copy of an Order (I) Establishing Bar Dates For Filing Proofs of Claim, Including Section 503(b)(9) Claims, (II) Approving The Form And Manner Of Notice Thereof, and (III) Providing Certain Supplemental Relief, dated July 28, 2009, setting a bar date of October 6, 2009 in *In re Accredited Home Lenders Holding Co., et al.*, No. 09-11516 (MFW) (Bankr. D. Del.)

3. Attached as Exhibit 3 is a true and correct copy of an Order Pursuant to Bankruptcy Rule 3003(c)(3) And Local Rule 2002-1(e) Establishing Bar Dates For Filing Proofs Of Claim And Approving The Form And Manner Of Notice Thereof, dated October 30, 2007, setting a bar date of January 11, 2008 in *In Re American Home Mortgage Holdings, Inc., et al.*, No. 07-11047 (CSS) (Bankr. D. Del.).

4. Attached as Exhibit 4 is a true and correct copy of a Stipulated order Regarding the Claims Bar Date, dated September 2, 2008 with Declaration of Drake D. Foster Regarding Publication of the Bar Date Notice In the Wall Street Journal, dated September 12, 2008, , setting a bar date of November 10, 2008 in *In re Fremont General Corporation*, No. 8:08-13421-ES (Bankr. C.D. Cal.).

5. Attached as Exhibit 5 is a true and correct copy of a Final *Ex Parte* Order Of Dismissal, dated June 28, 2012, in *In re MILA, Inc.*, No. 07-13059-KAO (Bankr. W.D. Wash.).

6. Attached as Exhibit 6 is a true and correct copy of an Order Approving Account, Discharging Trustee And Closing Estate, dated April 5, 2011, in *In re SouthStar Funding, LLC*,

No. 07-5842-PWB (Bankr. N.D. Ga.).

7. Attached as Exhibit 7 is a true and correct copy of an Order (1) Fixing Bar Date For The Filing Of Proofs Of Claim, (2) Fixing Bar Date For The Filing Of Proofs Of Claim By Governmental Units, (3) Fixing Bar Date For the Filing Of Requests For Allowance Of Bankruptcy Code § 503(b)(9) Administrative Expense Claims, (4) Fixing Bar Date For The Filing Of Warn Act Claims, (5) Designating Form And Manner Of Notice Thereof, And (6) Granting Related Relief, dated, November 26, 2007, setting a bar date of February 1, 2008 in *In re Aegis Mortgage Corp.*, No. 07-11119 (BLS) (Bankr. D. Del.).

8. Attached as Exhibit 8 is a true and correct copy of an Order Establishing Bar Dates For Filing Proofs Of Claim And Approving Form, Manner And Sufficiency Of Notice Thereof, dated June 28, 2007, setting a bar date of August 31, 2007 in *In re New Century TRS Holdings, Inc.*, No. 0-10416 (KJC) (Bankr D. Del.).

9. Attached as Exhibit 9 is a true and correct copy of Order Approving Stipulation By And Among The Debtors, The Official Committee Of Unsecured Creditors And Bear Stearns Mortgage Capital Corporation, Bear, Stearns, & Co., Inc. And EMC Mortgage Corporation, dated February 12, 2009, in *In re Aegis Mortgage Corporation, et al.*, No. 07-11119 (BLS) (Bankr. D. Del.).

10. Attached as Exhibit 10 is a true and correct copy of an Order Approving Stipulation Between The New Century Liquidating Trust And EMC Mortgage Corporation Fixing And Allowing Its EPD/Breach Claims, dated May 11, 2009, in *In re New Century TRS Holdings, Inc.*, No. 07-10416 (KJC) (Bankr. D. Del.).

11. Attached as Exhibit 11 is a true and correct copy of an Amended Order Confirming “Signature Group Holdings, LLC’s Fourth Amended Chapter 11 Plan of

Reorganization of Fremont General Corporation, Joined by James McInture As Co-Plan Proponent (Dated May 24, 2010)," dated June 9, 2010, in *In re Fremont General Corporation*, No. 8:08-13421-ES (Bankr. C.D. Cal.).

12. Attached as Exhibit 12 is a true and correct copy of Signature Group Holdings, LLC's Fourth Amended Chapter 11 Plan of Reorganization of Fremont General Corporation, Joined by James McIntyre As Co-Plan Proponent, dated June 8, 2010, in *In re Fremont General Corporation*, No. 8:08-13421-ES (Bankr. C.D. Cal.).

13. Attached as Exhibit 13 is a true and correct copy of a Notice of Chapter 11 Bankruptcy Case, Meeting of Creditors & Deadlines, dated November 23, 2007, setting a bar date of April 1, 2008 in *In re Fieldstone Mortgage Company*, No. 07-21814 (Bankr. D. Md.).

14. Attached as Exhibit 14 is a true and correct copy of an Order of the Court Granting Motion to Dismiss Case Pursuant to 11 U.S.C. § 303(j) by Stipulation Between Alleged Debtor and Petitioning Creditors, filed by Novastar Home Mortgage, Inc., So Ordered on April 24, 2008, in *In re NovaStar Mortgage Inc.*, No. 08-40245-drd7 (Bankr. W.D. Mo.).

15. Attached as Exhibit 15 is a true and correct copy of a Final Decree And Order Approving Motion Of The Liquidating Trust Of ResMAE Mortgage Corporation, by And Through Alan M. Jacobs, Its Bankruptcy Court Appointed Liquidating Trustee, For Entry Of Final Decree And Related Relief, dated December 23, 2010, in *In re Liquidating Trust of ResMAE Mortgage Corporation, f/k/a ResMAE Mortgage Corporation*, No. 07-10177 (KJC) (Bankr. D. Del.).

16. Attached as Exhibit 16 is a true and correct copy of an Order Confirming Debtor's Revised Plan Of Reorganization, dated July 11, 2008, in *In re Fieldstone Mortgage Company*, No. 07-21814-JS (Bankr. D. Md.).

17. Attached as Exhibit 17 is a true and correct copy of Debtor's Revised Plan Of Reorganization, dated July 11, 2008, in *In re Fieldstone Mortgage Company*, No. 07-21814-JS (Bankr. D. Md.).

18. Attached as Exhibit 18 is a true and correct copy of an Order Approving Stipulation Between New Century Liquidating Trust, J.P. Mortgage Acquisition Corp., J.P. Morgan Chase Bank NA and J.P. Morgan Chase Corporation Fixing And Allowing Their Claim, dated January 5, 2010, in *In re New Century TRS Holdings, Inc., et al.*, No. 0-10416 (KJC) (Bankr. D. Del.).

19. Attached as Exhibit 19 is a true and correct copy of a proof of claim, dated May 12, 2008, submitted by J.P Morgan Acceptance Corporation I, J.P. Morgan Securities Inc., et al., in *In re ResMAE Mortgage Corporation*, No. 07-10177 (Bankr. D. Del.).

20. Attached as Exhibit 20 is a true and correct copy of a proof of claim, dated May 12, 2008, submitted by J.P Morgan Acceptance Corporation I, J.P. Morgan Securities Inc., et al., in *In re ResMAE Mortgage Corporation*, No. 07-10177 (Bankr. D. Del.).

21. Attached as Exhibit 21 is a true and correct copy of a Consent Order Terminating the Cash Reserve For And Settling Claim Nos. 256 And 257, dated December 9, 2008, in *In re Liquidating Trust of ResMAE Mortgage Corporation, f/k/a ResMAE Mortgage Corporation*, No. 07-10177 (KJC) (Bankr. D. Del.).

22. Attached as Exhibit 22 is a true and correct copy of an Order Sustaining Plan Trust's Eighty-Second Omnibus (Non-Substantive) Objection To Claims Pursuant To Section 502(b) Of The Bankruptcy Code, Bankruptcy Rules 3003 And 3007, and Local Rule 3007-1, dated August 15, 2011, in *In re American Home Mortgage Holdings, Inc.*, (No. 07-11047 (CSS) (Bankr. D. Del.).

23. Attached as Exhibit 23 is a true and correct copy of a printout of a webpage of Epiq Systems, concerning *American Home Mortgage Corp.*

24. Attached as Exhibit 24 is a true and correct copy of Findings of Fact, Conclusions of Law and Order Confirming the Amended Chapter 11 Plan Of Liquidation Of The Debtors Dated February 18, 2009, dated February 23, 2009, in *In re American Home Mortgage Holdings, Inc., et al.* 07-11047 (CSS) (Bankr. D. Del.).

25. Attached as Exhibit 25 is a true and correct copy of an Amended Chapter 11 Plan of Liquidation Of The Debtors Dated As of February 18, 2009, in *In re American Home Mortgage Holdings, Inc., et al.* 07-11047 (CSS) (Bankr. D. Del.).

26. Attached as Exhibit 26 is a true and correct copy of a Notice of Removal, dated April 9, 2012, in *Bayerische Landesbank, N.Y. Branch v. Bear Stearns & Co., Inc.*, No. 12-cv-02804-LAK (S.D.N.Y.).

27. Attached as Exhibit 27 is a true and correct copy of a Supplemental Notice of Removal, dated May 29, 2012, in *Bayerische Landesbank, N.Y. Branch v. Bear Stearns & Co., Inc.*, No. 12-cv-02804-LAK (S.D.N.Y.).

28. Attached as Exhibit 28 is a true and correct copy of a proof of claim, dated June 12, 2012, submitted by Merrill Lynch, Pierce, Fenner & Smith Incorporated, in *In re Residential Funding Company*, No. 12-12019 (S.D.N.Y. Bankr.).

29. Attached as Exhibit 29 is a true and correct copy of an Order of the United States Court of Appeals for the Second Circuit granting petition pursuant to 28 U.S.C. § 1292(b), dated April 25, 2012, in *American International Group, Inc., et al v. Bank of America, et al.*, No. 11-5419-mv.

Executed on: July 18, 2012

/s/ Jeroen van Kwawegen
Jeroen van Kwawegen